BAIL SLIP

The petitioner (Accused) namely Munusamy was directed to be released on bail in and by the order of this Court dated 7.1.2000 and made in Crl.O.P.No. 11073 of 1999 in Crl.appeal 619/1999 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-01-2007

CORAM

THE HONOURABLE MR.JUSTICE S.TAMILVANAN

CRIMINAL APPEAL No. 619 of 1999

Munusamy ... Appellant/Accused

-vs-

The Inspector of Police
B4, High Court Police Station,
Madras. ... Respondent/Complainant

Criminal Appeal filed under Section 374 CR.P.C. against the judgment of conviction and sentence, imposed on the appellant by the IV Additional Sessions Judge, Madras in S.C.No.189 of 1998, dated 23.07.1999.

For appellant : Mr.A.Sirajudeen

For respondent : Mr.Hasan Mohamed Jinnah
Govt. Advocate (crl. side)

J U D G M E N T

This Criminal Appeal is preferred by the appellant / accused against the judgment of conviction, dated 23.07.1999 made in S.C.No.189 of 1998 on the file of the IV Additional Sessions Judge, Chennai.

2. The brief facts of the prosecution case are as follows :

On 13.11.1997, at about 10.15 a.m, at the High Court entrance gate, opposite to Thambu Chetty Street, due to the previous enmity, the appellant / accused attacked the defacto complainant, a practicing lawyer by wooden log on his head, face and back and thereby attempted to commit murder and further, he threatened the public assembled there with dare consequences. The trial court, framed charges against the appellant /

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accused under Sections 341, 307 and 506 (II) IPC. In support of the prosecution case, 14 witnesses were examined, Exs.P.1 to P.14 and M.Os.1 to 5 were marked.

3. Considering the arguments advanced by both sides, based on the evidence, the trial court has held that the appellant / accused is guilty under Section 307 IPC and imposed 7 years RI and a fine of Rs.5,000/- with default sentence and under Section 506 (II) IPC, imposed 7 years RI and he was not found guilty under Section 341 IPC and the sentence was ordered to run concurrently. Aggrieved by the judgment of conviction, the appellant / accused has preferred this appeal.

4. Mr.A.Sirajudeen, learned counsel appearing for the appellant / accused contended that the evidence of P.Ws.1 to 3 are not cogent and convincing, but self-contradictory. According to him, the alleged guilt against the appellant has not been proved beyond reasonable doubt.

5. Per contra, Mr.Hasan Mohamed Jinnah, learned Government Advocate (Crl.side) would contend that the occurrence had taken place at the northern side front gate of the High Court, during day time in the presence of witnesses and the eye witnesses examined before the trial court, have correctly identified the accused and have given cogent and corroborative evidence to prove the guilt against the accused, beyond reasonable doubt. Further, the evidence of P.W.8, Dr.Thangam, attached to the Government General Hospital, Chennai, has spoken to about the injury sustained by the defacto complaint, P.W.1, on the date of occurrence. It is seen from the evidence of P.W.1 that he had been the counsel to the appellant / accused, in a case that was conducted before the Assistant Commissioner of Labour, Teynampet, for about 4 years and got compensation of Rs.96,306/- for the appellant and also took steps to recover the amount under the Revenue Recovery Act. Since the factory was shifted to some other place with some other name, there was a delay caused in the said proceedings, due to which, the appellant got angry with P.W.1 and was subsequently threatening P.W.1 and also he got back the case brief from P.W.1, so as to engage some other counsel, but he continued to threaten P.W.1 and attacked him by M.O.1 on the date of occurrence.

6. As per the evidence of the doctor, P.W.8 and the accident register copy, Ex.P.5, the defacto complainant, P.W.1 had sustained the following injuries:

1. Laceration 4 x 2 cm on the forehead
2. 5 x 3 cm laceration over the root of the nose
3. Congestion over the right eye and swelling over the lower right eyelid.

7. As per Ex.P.7, wound certificate, the following injuries were found on
27.11.1997, while P.W.1 was examined by the other Doctor P.W.9 :

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" O/E 27.11.97 Right eye veins 5 ½ / 60 without erection left eye vein 6/36 without erection.
Patient c/o (n.c) watery and pain. Right eye – 3 days (n.c) right eye conj. Clear cornea normal layers.
Cornea clear Iris post (n.c) pupil irregular dilated.
Opinion right eye Indocyclitis. Left eye normal.
Patient underwent treatment for his Indocyclitis right eye. Patient responded well to treatment."

8. It is seen from the evidence that, apart from the injured witness, P.W.1, P.W.2 and P.W.3, eye witness have also spoken to about the occurrence, which corroborates the evidence of P.W.1.

9. As contended by the learned Government Advocate, M.O.1 is a deadly weapon, which was used for attacking P.W.1, in front of the High Court campus. Further, the prosecution has established the alleged motive of the appellant / accused for attacking P.W.1 and the evidence available on record would show that the appellant / accused had attempted to commit murder.

10. Considering the oral and documentary evidence and also the arguments advanced by both sides, I am of the considered view that the prosecution has established that the appellant / accused has committed offence, punishable under Sections 307 and 506 (II) IPC. As it was a busy area, at the time of the occurrence, general public gathered, but the appellant / accused had threatened them with dare consequences. The alleged guilt under Section 506 (II) IPC has also been established by the prosecution. But, on the facts and circumstances, I am of the considered view to modify the sentence of 7 years RI and fine of Rs.5,000/- into 5 years RI and to pay of fine of RS.5,000/- under Section 307 IPC and to modify the sentence of 7 years RI into 5 years RI under Section 506 (II) IPC. Considering proportionality of sentence and order to run the sentence concurrently, in order to meet the ends of justice.

11. In the result, the conviction on the appellant / accused under Section 307 IPC and 506 (II) IPC are confirmed, but the sentence is modified into 5 years RI and to pay of fine of Rs.5,000/- instead of 7 years RI and to pay a fine of Rs.5,000/- under Section 307 IPC and like wise the sentence is modified into 5 years RI instead of 7 years RI under Section 506 (II) IPC and the sentence shall run concurrently.

12. It is seen that the appellant is on bail and hence, the trial court is directed to secure the appellant / accused to undergo the remaining period of sentence.

13. With the above modification, the Criminal Appeal is disposed of.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. THE IV ADDL SESSIONS JUDGE,
MADRAS.

2. THE PRINCIPAL JUDGE, MADRAS

3. THE VII METROPOLITAN
MAGISTRATE MAGISTRATE, MADRAS.

4. THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, MADRAS.

5. THE SUPERINTEDENT OF CENTRAL
PRISON VELLORE.

6. THE INSPECTOR OF POLICE
B4, HIGH COURT POLICE STATION,
MADRAS.

7. THE PUBLIC PROSECUTOR,
HIGH COURT, HIGH COURT, CHENNAI.

VC (co)
sg 8/6/07

Crl.A.No.619 of 1999

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